

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JAMES MITCHELL-BEY,

PLAINTIFF,

CIVIL ACTION No. 06-11746

V.

HONORABLE ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE

CITY OF DETROIT, *ET AL.*,

DEFENDANTS.

MAGISTRATE JUDGE
MONA K. MAJZOUN

**ORDER ADOPTING IN PART THE MAGISTRATE'S REPORT &
RECOMMENDATION [D/E #20], GRANTING DEFENDANTS' MOTION TO DISMISS
[D/E # 9], & DISMISSING THE CASE**

Before the Court is the Magistrate Judge's Report and Recommendation addressing Defendants' motion to dismiss Plaintiff's claims for either failure to state a claim for relief or because they are time barred by the applicable statute of limitation.

Having reviewed the file, the motion and the Magistrate's Report & Recommendation , Plaintiff's objections, this Court **ACCEPTS AND ENTERS** the Magistrate's Report and Recommendation as the findings and conclusions of the Court for the reasons in the Magistrate's Report and Recommendation.

Not addressed by the Magistrate's Report and Recommendation but raised in Plaintiff's objections are Plaintiff's claims that relate to the invalidity of his conviction. These claims are **DISMISSED WITHOUT PREJUDICE** only to be brought once/if Plaintiff's underlying criminal action is terminated in favor of him. See *Heck v. Humphrey*, 512 U.S. 477 (1994); *Wolfe v. Perry*, 412 F.3d 707, 714 (6th Cir. 2005).

The rest of the claims are **DISMISSED WITH PREJUDICE** because they are either barred by the applicable statute of limitations or because they fail to state a claim upon which relief may be granted.

As a result the case is **DISMISSED**.

IT IS SO ORDERED.

s/Arthur J. Tarnow
Arthur J. Tarnow
United States District Judge

Dated: February 28, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on February 28, 2007, by electronic and/or ordinary mail.

s/Theresa E. Taylor
Case Manager